

## **REMARKS**

Claims 3, 7 and 11 have been canceled. Claims 1, 5, 9, 13-15 have been amended. These amendments are in conformance with the allowable subject matter pointed out by the Examiner in the previous Office Action (see below). The amendments are fully supported by the original claims and the specification as originally filed. No new matter has been added, and the amendments do not raise any new issues that would require further search. It is believed that they place the case in condition for allowance. Thus, entry after the final Office Action is appropriate..

Pending Claims 1, 4-5, 8-9, and 12-15 are currently presented for examination. Applicant thanks the Examiner for his review of the instant application. After having carefully considered the Office Action dated December 21, 2007, Applicant respectfully traverses the Examiner's claim rejections.

### **Claim Objections**

The Examiner objects to Claim 1 because of informalities directed to the phrases "the muscles," "the jaws," and "wherein the stress judging means excludes from a target period for stress judgment a period of work activity comprising opening and closing the jaws." Applicant thanks the Examiner for suggested changes to overcome the objection. Applicant submits that Claim 1 has been amended in accordance with Examiner's suggestions.

The Examiner objects to Claim 3 because of informalities directed to the insertion of the phrase "work activity" after the phrase "the period." Applicant thanks the Examiner for suggested changes to overcome the objection. Applicant submits that the phrase "work activity" has been inserted after phrase "the period" in amended Claim 1 in accordance with Examiner's suggestions. Claim 1 has been amended, rather than Claim 3, as the Claim 1 now incorporates the limitations of Claim 3 and Claim 3 has been canceled.

The Examiner objects to Claim 5 because of informalities directed to the word "comprises" and other phrasing. Applicant submits that Claim 5 has been amended in accordance with Examiner's suggestions.

The Examiner objects to Claim 7 because of informalities directed to the insertion of the phrase "work activity" after the phrase "the period." Applicant submits that Claim 5 has been

The Examiner objects to Claim 9 because of informalities directed to the phrases “step for,” “the muscles,” “the jaws,” and “wherein the stress judging means excludes from a target period for stress judgment a period of work activity comprising opening and closing the jaws.” Applicant thanks the Examiner for suggested changes to overcome the objection. However, Applicant believes the Examiner meant to suggest the phrase “step of” as a replacement for “step for.” With this understanding, Applicant submits that Claim 9 has been amended in accordance with Examiner’s suggestions.

The Examiner objects to Claim 11 because of informalities directed to the insertion of the phrase “work activity” after the phrase “the period.” Applicant submits that Claim 9 has been amended in accordance with Examiner’s suggestions. Claim 9 has been amended, rather than Claim 11, as the Claim 9 now incorporates the limitations of Claim 11 and Claim 11 has been canceled.

The Examiner objects to Claim 13-15 because of informalities directed to the insertion of the phrase “work activity” after the phrase “the period” and to the word “shooting.” Applicant submits that Claims 13-15 has been amended in accordance with Examiner’s suggestions, by insertion of the phrase “work activity” after the phrase “the period” and by replacing the word “shooting” with the phrase “video recording.”

#### **Rejections Under 35 U.S.C. § 101**

The Examiner rejects Claims 5, 7, 8, and 14 under 35 U.S.C. § 101, as the claimed invention is directed to nonstatutory subject matter. In particular, the Examiner asserts Claim 5 is directed to nonstatutory descriptive material in the form of a “computer-executable program” which consists merely of process steps.

Applicant thanks the Examiner for suggested changes to overcome the rejection. Applicant has amended independent Claims 5 and 14 to recite “computer program product encoded on a computer-readable medium” in conformance with the Examiner’s suggestions. Claim 7 has been canceled. Claim 8, being dependent on Claim 5, accordingly is also limited by the addition of the amended language in Claim 5. Removal of any rejections under 35 U.S.C. 101 is respectfully requested.

**Rejections Under 35 U.S.C. § 102 and 103 and Allowable Subject Matter**

The Examiner rejects Claims 1, 4, 5 and 8 under 35 U.S.C. § 102(b) as being anticipated by US Pat. No. 5,195,531 to Bennett ("Bennett"). Additionally, the Examiner rejects Claims 9 and 12 under 35 U.S.C. § 103(a) as being unpatentable over "Wearable and automotive systems for affect recognition from physiology" to Healey ("Healey") in view of Bennett. However, the Examiner has stated that Claims 3, 11, and 13-15 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

In light of the allowable subject matter, Applicant has made the following amendments.

Claim 3 has been canceled, and Applicant has amended independent Claim 1 to include all the limitations of Claim 3, previously dependent thereon. Notably, in addition to the amendments to overcome the objections as previously noted above, Claim 1 has been amended to include the limitation "wherein the stress judging means specifies the period during which the test subject is opening and closing the jaws by recognizing voice data acquired by recording a speech of the test subject."

Claim 11 has been canceled, and Applicant has amended independent Claim 9 to include all the limitations of Claim 11, previously dependent thereon. Notably, in addition to the amendments to overcome the objections as previously noted above, Claim 9 has been amended to include the limitation "wherein the stress judging step specifies the period during which the test subject is opening and closing the jaws by recognizing voice data acquired by recording a speech of the test subject."

Claim 13 has been rewritten in independent form to include all the limitations of Claim 1 from which Claim 13 had previously been dependent on.

Claim 14 has been rewritten in independent form to include all the limitations of Claim 5 from which Claim 14 had previously been dependent on.

Claim 15 has been rewritten in independent form to include all the limitations of Claim 9 from which Claim 15 had previously been dependent on.

Applicant notes that the Examiner has not stated whether Claim 7 would be allowable if rewritten in independent form. However, Applicant believes that Claim 7 would be allowable if rewritten in independent form for at least the same reasons as Claims 3 and 11. Accordingly, Claim 7 has been canceled, and Applicant has amended independent Claim 5 to include all the

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limitations of Claim 7, previously dependent thereon. Notably, in addition to the amendments to overcome the objections as previously noted above, Claim 5 has been amended to include the limitation “wherein the judgment instruction specifies the period during which the test subject is opening and closing the jaws by recognizing voice data acquired by recording a speech of the test subject.”

Because independent Claims 1, 5, and 9 have been written to incorporate all the limitations from Claims 3, 7, and 11, respectively, Applicant submits that Claims 1, 5, and 9 are now in a condition for allowance. Applicant respectfully requests that the Examiner withdraw the rejections of these claims under 35 U.S.C. § 102 or § 103. For at least the same reasons, Applicant respectfully requests that the Examiner withdraw the rejections of Claims 4, 8, and 12, dependent thereon.

Applicant believes that all outstanding issues in this case have been resolved and that the present claims are in condition for allowance. Favorable action is respectfully requested. Nevertheless, if any undeveloped issues remain or if any issues require clarification, the Examiner is invited to contact the undersigned at the telephone number provided below in order to expedite the resolution of such issues.

*No Disclaimers or Disavowals*

Although the present communication may include alterations to the application or claims, or characterizations of claim scope or referenced art, the Applicants are not conceding in this application that previously pending claims are not patentable over the cited references. Rather, any alterations or characterizations are being made to facilitate expeditious prosecution of this application. The Applicants reserve the right to pursue at a later date any previously pending or other broader or narrower claims that capture any subject matter supported by the present disclosure, including subject matter found to be specifically disclaimed herein or by any prior prosecution. Accordingly, reviewers of this or any parent, child or related prosecution history shall not reasonably infer that the Applicants have made any disclaimers or disavowals of any subject matter supported by the present application.

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Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

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AMEND

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